

REMARKS/ARGUMENTS

Claim Amendments

By the present amendment, new claims 34-38 have been added and depend on claim 12. Support for this amendment can be found in claims 5-9 as originally filed. No new matter has been entered by the present amendment and its entry is respectfully requested.

Restriction Requirement

Applicant provisionally elects Group 4 comprising claim 12, with traverse, which is drawn to a method of determining whether or not a cancer is metastatic comprising determining the level of podocalyxin. This is without prejudice to Applicant filing a divisional application to the non-elected claim(s).

The election of Group 4 is made with traverse and Applicant submits that Groups 1, 3 and 6 should be included within Group 4 as they all relate to the same inventive concept in that they all relate to determining the levels of podocalyxin in cancer. Firstly, Applicants submit that the search and examination of Groups 1 and 4 can be made together without serious burden on the Examiner as both groups relate to a method of determining the level of podocalyxin in cancer. With respect, it is submitted that the search for the subject matter of both groups would be the same. In addition, Applicant submits that Group 3 and Group 6 claims related to the combination of podocalyxin and endoglycan levels is narrower than the broad claim to podocalyxin levels alone in Group 4. Thus a search of the broad claim to podocalyxin would necessarily retrieve any results related to the more narrow combination. Therefore, the claims of Groups 1, 3, 4 and 6 relate to a single, general inventive concept related to determining the levels of podocalyxin in cancer and should be examined together.


In view of the foregoing, we respectfully request that the restriction requirement with respect to Groups 1, 3, 4 and 6 be withdrawn and these groups be examined in a single application.

The Commissioner is hereby authorized to charge any fee (including any claim fee) which may be required to our Deposit Account No. 02-2095.

In view of the foregoing comments and amendments, we respectfully submit that the application is in order for allowance and early indication of that effect is respectfully requested. Should the Examiner deem it beneficial to discuss the application in greater detail, he is kindly requested to contact the undersigned by telephone at (416) 957-1678 at his convenience.

Respectfully submitted,

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